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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed Oct. 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

THE COALITION TO DECOMMISSION SAN ONOFRE'S MOTION TO STAY DECISION D.14-11-040 AND ITS IMPLEMENTATION

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1. Motion

The Coalition to Decommission San Onofre (a fictitious name of Citizens Oversight, Inc.) hereby moves to stay Decision D.14-11-040 "Decision Approving Settlement Agreement as Amended And Restated by Settling Parties"[1] and its implementation especially in terms of any recoveries from ratepayers by Southern California Edison and San Diego Gas & Electric until the matter is decided, and to order that the utility summarize to-date implementation of that settlement agreement.

2. Background

The "Joint Ruling Of Assigned Commissioner And Assigned Administrative Law Judge Directing Parties To Provide Additional Recommendations For Further Procedural Action And Substantive Modifications To Decision 14-11-040" filed on Dec. 13, 2016[2]. ("Joint Ruling").

Specifically, on page 2 (italics added):

> "This ruling requires the parties to meet and confer to further address the *standards for approving settlements* as set forth in Rule 12.1(d) and to *explore additional procedural actions* for the Commission to consider in issuing its decision on the pending petitions for modification (PFM) of D.14-11-040."

The prior sentence is footnoted with the following text:

> "The meet and confer sessions directed through this ruling are to occur in accordance with Rule 12.6 and shall be deemed confidential party settlement discussions. Nothing in this ruling prevents the parties or a sub-set of parties from holding additional meet and confer sessions to further address the issues presented. All such meetings shall be deemed confidential consistent with Rule 12.6."

CDSO largely agrees with the recounting of the history of the case on pages 3 through 13 of the Joint Ruling, except:

1 http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M143/K336/143336799.PDF
2 http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M171/K205/171205944.PDF

1. On page 9, line 14, it says: "A4NR, Henricks, and WEM opposed the settlement." CSDO also opposed the settlement.

2. Also, on that page, the Joint Ruling enumerates the main points of the April 24, 2014 ruling[3]. We believe it is also extremely important to note that the April 24, 2014 ruling also included (on page 6) the "Request for Stay of Proceedings" which discontinued the formal proceedings of the OII, including Phase 3 which was not even started, and Phase 2, which did not have a proposed decision drafted. This was done based on a suggestion within the then unapproved settlement rather than on a motion by the settling parties, which then would allow the other parties to respond. However, it is a very important step that we believe should be included in the background because it halted the investigation of the OII proceedings and transitioned to "settlement mode."

3. The history of the proceeding should include the Application for Rehearing[4] filed December 18, 2014, by CDSO jointly with Henricks, based on the fact that the Settlement fails the Commission's standards under Rule 12.1. This was mentioned as if it is just a "position" regarding petitions for modification on Page 20 of the Joint Ruling. Instead, this should be mentioned in the historical recounting of the case. That Application is still pending.

3. Ultimate Judgment or Settlement May Differ Substantially

At this juncture, the Commission has before it essentially two options:

1. Restart administrative law procedures per the Commission's own Rules of Practice and Procedure (sans Rule 12), or

2. Restart new settlement discussions under Rule 12 of the Rules of Practice and Procedure.

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3 Administrative Law Judges' Ruling Setting Hearing And Requiring Supplemental Information On Joint Motion For Adoption Of Settlement -- http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M090/K085/90085908.PDF

4 Ruth Henricks' And The Coalition To Decommissionsan Onofre's (CDSO) Application For Rehearingdecision D.14-11-040 (20 November 2014, Issued 25 November 2014) http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M143/K914/143914364.PDF

We have already made our position known that we prefer the open process of the non-Rule 12 portion of the Rules of Practice and Procedure, and we have submitted an Application for Rehearing on December 18, 2014 per Rule 16.1 in an attempt to process this investigation in this manner.

We also note that the matter has been take up by the 9th Circuit as a class-action suit. Any proposed settlement will likely need to be reviewed by that court.

The provisions of the final conclusion of this matter will likely include substantial changes when compared with D.14-11-040.

4. Advice Letter 3499-E

On November 1, 2016 SCE submitted Advice Letter 3499-E with subject "Implementation of the 2017 San Onofre Nuclear Generating Station Order Instituting Investigation 12-10-013 Settlement Agreement Revenue Requirement Pursuant to Decision 14-11-040."[5]

Essentially, this Advice Letter (and others like it) describes how the settlement revenue requirement will be implemented in rates. On page 2 is states:

> As of January 1, 2017, which is the date the 2017 SONGS Settlement revenue requirement will be implemented in rates, there is just over five years remaining in the recovery period.

On page 4, it discloses that SCE has already "recovered" $873 million from customers for the supposed remaining value of the plant.

> During the period between February 1, 2012 and December 31, 2016, SCE will have recovered approximately $873 million from customers, or 50.4% of the original $1.733 billion balance.

On Page 6, it discloses the expectation of transferring nearly $237 million in 2017 from customers to SCE.

5 https://www.sce.com/NR/sc3/tm2/pdf/3499-E.pdf

Consistent with D.14-11-040, SCE will include the SONGS settlement revenue requirement in generation rates on January 1, 2017. The 2017 SONGS settlement revenue requirement is estimated to be $236.9 million and includes estimated depreciation, property taxes, income taxes, return on rate base, and franchise fees and uncollectibles consistent with Preliminary Statement Part YY. SCE will consolidate this revenue requirement along with other Commission-authorized revenue requirements in rates on January 1, 2017.

5. Halt Further Implementation of the Tainted Settlement

While the Commission has fiddled for all of 2015 with sanctions over the impropriety of the meeting between the CPUC and SCE, and then delayed during all of 2016 asking for yet another round of suggestions on how to complete the processing of the OII, SCE has been laughing all the way to the bank with ratepayer funds totaling nearly a billion dollars.

Recently, SCE has suggested that it was a great idea to delay any further settlement discussions until after the middle of this year so the results of the arbitration with Mitsubishi Heavy Industries (MHI) would hopefully be completed and would assist in any changes to the settlement agreement.

Of course that means they will continue to implement the original tainted settlement agreement. The longer they delay the more they "recover" under the tainted, and we assert, unfair settlement agreement. It has been our position that the utilities should rightly recover only the "replacement power" which comprises about $500 million of the approved settlement amount. Thus, recoveries implemented to date already exceeds what we have argued is prudent and fair.

Therefore, we move that the Commission stay D.14-11-040 and its implementation until the matter is ultimately concluded.

6. Order Summary of Settlement Implementation to Date

In addition, we move that the Commission order that SCE produce a summary of the to-date implementation of the settlement agreement as of the date the implementation was halted.

We respectfully point out a small but significant typographical error in the Joint Ruling, on page 22. This section currently reads as follows:

> The Agreement as adopted estimated customer contributions covering approximately $3.285 million of the $4.733 billion sought by the Utilities in this proceeding.[50] Edison's Response to the May 9th Ruling estimates that its $3.285 million or 70% customer contribution for SONGS expenses has been reduced to $2.036 billion or 55 percent of the total costs at issue in this proceeding.

The customer contributions are off by three-orders of magnitude, brought on by a simple mistake of either using a decimal point instead of a comma, or the unit "million" instead of "billion." The passage could be corrected as follows:

> The Agreement as adopted estimated customer contributions covering approximately $3.285 <u>billion</u> of the $4.733 billion sought by the Utilities in this proceeding.[50] Edison's Response to the May 9th Ruling estimates that its $3.285 <u>billion</u> or 70% customer contribution for SONGS expenses has been reduced to $2.036 billion or 55 percent of the total costs at issue in this proceeding.

Thus, a separate an accurate accounting is called for at this juncture.

Respectfully Submitted,

Dated: 13 Feb 2017 By: /s/ Raymond Lutz

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